



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # **085-2011**

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CITY CLERK'S OFFICE

LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: April 11, 2011

SUBJECT: Transmittal – Internal Affairs Investigation Report of the Miami Beach Police Athletic League

The purpose of this Letter to the Commission (LTC) is to provide the Mayor and City Commission with the Internal Affairs Investigation Report of the Miami Beach Police Athletic League.

Attached please find the memorandum and report submitted by Carlos Noriega, Chief of Police.

Please contact me if you have any additional questions.

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Carlos Noriega, Chief of Police

DATE: April 11, 2011

SUBJECT: **Internal Affairs Investigation Report of the Miami Beach Police Athletic League**


This memorandum will serve to provide information relative to the concerns voiced by Mr. Steve Cohen during the March 9, 2011 City of Miami Commission meeting with regards to the Miami Beach Police Athletic League Internal Affairs Investigation Report.

It is important to note that in response to Mr. Steve Cohen's remarks the following is significant to consider:

1. Mr. Cohen was a member of the P.A.L. Executive Board, including Vice President, during the period of time where most, if not all, of his allegations of inappropriate activity by the P.A.L. were occurring.
2. The Internal Affairs investigation was initiated by Chief Noriega (not Mr. Cohen) once the allegations of possible criminal activity were brought to his attention.
3. Mr. Gregg Francis, the past president of the P.A.L. as mentioned several times by Mr. Cohen, resigned from his position but subsequently did not lose his job at Mango's as a result of anything having to do with the P.A.L. (according to Mango's owner David Wallach).
4. Chief Noriega directed Division Chief Riley to resign from the P.A.L. Executive Board, at least until the Internal Affairs investigation was concluded. This was done as a precautionary measure to remove any perception of a conflict of interest in this matter between the P.A.L. and the Police Department.
5. Finally, the P.A.L. is a private organization which is not run by the Police Department. Due to the close partnership with the Police Department however, Chief Noriega made an immediate determination to provide investigative oversight over the allegations in question through the Internal Affairs Unit ensuring accountability and transparency throughout.

Attached please find copies of the completed Internal Affairs Investigation Report of the Miami Beach Police Athletic League. This report was initiated by the Chiefs Office on July 21, 2009 and completed on September 28, 2010 by Sergeant Osvaldo Ramos.

If there are questions regarding this matter, please feel free to contact Captain J. Elmore of the Miami Beach Police Department, Internal Affairs Unit at 305.673.7920.

 CN/MG

MIAMIBEACH
POLICE



INTERNAL AFFAIRS REPORT

I.A. CASE NUMBER:

I2009-030

M.B.P.D. CASE NUMBER:

None

COMPLAINANT(S):

Office of the Chief

DATE OF INCIDENT:

Previous 36 months from date reported.

DATE REPORTED:

July 21st, 2009

INVOLVED PARTIES:

Police Athletic League (PAL) Board Members

INVESTIGATOR:

Sergeant Osvaldo Ramos

ALLEGATION:

Mr. Steve Cohen, a former vice-president of the PAL board, alleged PAL funds and assets were being misappropriated by members of the PAL Board. Mr. Cohen first raised his concerns to the Miami-Dade Commission on Ethics and Public Trust, who referred him to the Criminal Investigations Division (CID) of the Miami Beach Police Department. The investigation was forwarded to the Internal Affairs Unit of the Miami Beach Police Department by the Chief of Police.

FLORIDA STATE STATUTES:

Violation 1: Theft FSS 812.014, by Misappropriation of Police Athletic League (PAL) funds; a non for profit organization.

DISPOSITIONS:

Violation 1: **UNSUBSTANTIATED.**

PERSONS INTERVIEWED:

Mr. Steve Cohen	(Complainant)
Mr. Gregg Francis	(Witness)
Ms. Lori Freedline	(Witness)
Mr. Matthew Krieger	(Witness)
Mr. Bernard Winer	(Witness)
Mr. Robert Jenkins	(Witness)
Officer Michael Veski	(Witness)

PERSONS NOT INTERVIEWED:

Ms. Lynda Veski
Received certified letter: failed to respond
Ms. Maria Calzon Cruz
Received certified letter: failed to respond
Mr. Kenneth Stowe
Received certified letter: failed to respond
Mr. Lyle Stern
Received certified letter: failed to respond

At the conclusion of the criminal investigation, it was determined that there were no administrative violations in connection with this allegation. Based on the lack of administrative violations, the following employees were not interviewed: Detective Alkareem Azim, Division Chief William Riley and Officer Harry Morgan

CHRONOLOGY OF FACTS:

July 15, 2009

A Special Committee of the Board of Directors of the PAL convened. The members of the "Special Committee" present for the meeting were Mr. Gregg Francis (the President of the Board and the Chair), Officer Harry Morgan (Executive Director), Officer Robert Jenkins (Vice President), Division Chief William Riley (Treasurer), Ms. Lynda Veski (Past President), and Mr. Daniel H. Aronson Esq. Ms. Veski was elected by the Board to represent them in the meeting. Mr. Aronson was invited by the Special Committee to oversee the legal issues concerning matters related to Mr. Bernie Winer (Contracted Consultant). A synopsis of the meeting is as follows:

Mr. Winer was a contracted consultant for the calendar year of 2009 with an annual compensation of \$49,750. His principal duties were related to fundraising. The Committee believed that Mr. Winer's involvement in the DNA Life Program was not authorized pursuant to established PAL protocols and the program was run by a friend of Mr. Winer. Mr. Winer's involvement in a PAL sponsored white water rafting trip was also questioned. Mr. Winer not only participated in the trip but also brought his grandson along. In the Committee's opinion, the trip was not approved in accordance to established PAL protocols.

In the June 12, 2009 Special Committee meeting Division Chief Riley and Ms. Veski were tasked to audit Mr. Winer's credit card charges, check requests and expense reimbursements. Ms. Veski advised that although she had reviewed all the 2008 checks and charges, she had only briefly reviewed the 2009 records. Division Chief Riley stated that he had "serious concerns" about Mr. Winer's numerous charges, checks and reimbursements. A synopsis of their review is as follows:

- Mr. Winer had an American Express credit card issued under his name for PAL related purchases which was tax-exempt.
- On May 2, 2008 a charge on his American Express card for an airline ticket on South West Airlines for his grandson (Jesse Roberts) from St. Louis to Ft. Lauderdale for \$368.00.
 - A note was attached to the charge saying Mr. Winer owed the money and a second note was attached saying that, a donor, Mr. Mark Pickard had paid it.
 - This charge was related to the white water rafting trip.
- Numerous charges on Mr. Winer's PAL credit card for unknown lunches, dinners, gifts, alcoholic beverages for payments totaling \$2,500.00.
- Several instances where Mr. Winer made documented personal purchases on the PAL credit card where he would keep a "running balance or tab" for the purchases without immediately paying them for several months.
- A monthly American Online (AOL) charge of \$25.90 on his PAL American Express card for internet service at his home.
- Monthly charges for a cell phone he and other PAL staff had purchased with PAL funds.
- Mr. Winer had a PAL Costco membership card under his name and his wife's name and for other PAL, and non PAL staff. This card also provided for tax-exempt purchases.
 - The membership fees were being paid by the PAL with no legitimate PAL benefits.
- On December 12, 2008, check # 8253 was issued to either Mr. Peter Matthews or Restaurant Depot for an invoice from Restaurant Depot which indicated a purchase for large and expensive cuts of meat.
 - No one including Officer Morgan (who had co-signed the check) was aware of any PAL event or function associated with this purchase.

Mr. Aronson discussed his preliminary findings and the following is a synopsis of those findings:

- Several inconsistencies between the PAL charter documents filed with the Florida Department of State and the PAL by-laws.
- Several versions of the PAL by-laws are available and it was unknown which had been properly authorized as Florida State Statutes (FSS) 617 dictates.
 - Mr. Aronson advised that by-laws cannot contain provisions inconsistent with the articles of incorporation.
- Mr. Aronson noted that it appeared to him that the PAL had been operating without consideration of its Charter or its voting membership.
 - Mr. Aronson advised that although FSS does not require not-for-profit corporations to have members, the PAL's charter specifically provides for

- and empowers both voting and non-voting members.
- Mr. Aronson advised that in this regard, "members" of the organization are similar to shareholders in for-profit organizations with certain important rights, which are separate and distinct from the directors and officers of the organization.
- Mr. Aronson advised that the PAL's Charter clearly states that the voting membership are all members in good standing of the Miami Beach Lodge 8, of the Fraternal Order of Police and Associates.
- Mr. Aronson advised that according to the PAL Charter, amendments to the charter and by-laws require a two-thirds (2/3) vote of the members present and voting at a regular or special meeting called for that purpose with certain advance notice.
- Mr. Aronson advised that two PAL officers and directors are required to be elected by a vote of the PAL's members and a meeting with that purpose.
- The Committee commented on how none of the directors or officers had been selected in the outlined fashion in recent history.
- Mr. Aronson advised about the various federal tax law requirements and restrictions which apply to PAL as an exempt (501c3) non-profit organization to include the requirement to prepare and file an annual information return on Form 990.
- Mr. Aronson discussed the restrictions and sanctions under federal tax laws regarding private inurement and/or benefits.
- Mr. Aronson requested an opportunity to address the PAL's Board of Directors and/or Executive Board.

During the meeting, Mr. Francis requested the Committee to reach a consensus and recommendation on how to proceed in regards to the suspension of Mr. Winer. Officer Jenkins commented that Mr. Winer's past with the PAL should be taken into account when reaching a determination on his future. Officer Jenkins felt that due to Mr. Winer's contribution to the PAL, the Committee should settle with him and allow him to continue collecting his contract pay through the end of the year in exchange for his resignation and voluntary removal from the PAL.

Mr. Aronson advised the Committee that Mr. Winer, contractually, was entitled to 60 days notice of termination, the possibility of litigation is viable, additionally the expense, distraction, and potential harm to the PAL should be considered. The Committee unanimously determined and agreed upon these following recommendations:

- Mr. Winer would resign immediately as a consultant and member of the PAL.
- Mr. Winer would agree not to seek or accept election or appointment to the Executive Board prior to January 2011.
- Mr. Winer upon accepting the above requirement, would receive his pay at his current pay level through 12/31/2009.
- Mr. Winer would be permitted, if he chose, to remain on the board of directors but would play no active role prior to January 2011.
- Mr. Winer would agree to reasonable confidentiality, to non-disparagement provisions and would fully cooperate with the internal investigation and audit of the PAL.
- Mr. Winer would be required to repay all amounts found improperly charged, paid

- or reimbursed to him, promptly upon request.
- Mr. Winer's last three consulting payments of the year would be withheld to assure payment.

Mr. Aronson advised that he believed that the Executive Board should be counseled regarding its fiduciary and other obligations under FSS and federal tax laws and regulations before any settlement with or payments to Mr. Winer was either authorized or approved. The meeting was adjourned.

July 16, 2009

Officer Michael Veski sent an email to Ms. Maria Cruz, resigning as the Sergeant of Arms of the PAL. Ms. Cruz was the secretary of the PAL at that time. In that email, Officer Veski wrote, "as a police officer, I cannot allow myself to be a part of an organization whose actions and/or decisions may be unethical, if not illegal."

July 21, 2009

Sergeant Scott Flanagan and Sergeant Carolyn Chin of the Internal Affairs Unit conducted a recorded interview of Officer Michael Veski, a current police officer of the City of Miami Beach Police Department. When Officer Veski was asked for specifics of the un-ethical practices, he was not cooperative and was subsequently ordered to answer the questions posed to him during the interview. Officer Veski stated he was not aware of any specific illegal acts committed by a member of the police department. Officer Veski stated that during the July 15th Executive Board meeting, which was open to the public, an attorney made allegations that the board was conducting themselves unethically. According to Officer Veski's statement, that allegation prompted him to resign from the board so as to not associate himself with those accusations. Officer Veski alleged that the current PAL President, Robert Jenkins, Chief Carlos Noriega and other members of the Executive Board may have been privy to the specific allegations. Officer Veski stated he believed the accusation was probably based on violations of either by-laws, Federal laws, IRS regulations or "990" violations (an IRS form) in relation to laws that govern non-profit organizations. Officer Veski did not share any other pertinent information with the investigators and affirmed that his decision to resign was solely based on the commentary made during the July 15th meeting. He reiterated he had no specific information of any illegal and/or unethical behavior by any member of the board.

For further details refer to the audio recording or the transcript.

July 23, 2009

This investigation was assigned to Sergeant Wayne Jones of the Internal Affairs Unit. Sergeant Jones compiled a list of all the former and active members of the board. He reviewed the resignation letter generated by Officer Michael Veski and the recorded statement. All available documentation was gathered and reviewed. As of July 15, 2009, the PAL Executive Board was comprised of the following individuals:

- President Gregg Francis
- Vice President Steve Cohen

- Vice President Lori Freedline
- Vice President Reserve Officer Robert Jenkins
- Vice President Matthew Krieger, Esq.
- Treasurer, Division Chief William Riley
- Sergeant at Arms, Officer Michael Veski
- Secretary Maria Calzon Cruz
- Executive Director, Officer Harry "Rocky" Morgan

July 31, 2009

The Miami-Dade County Commission on Ethics and Public Trust initiated their investigation reference the allegations made by Mr. Cohen.

August 24, 2009

The Miami-Dade County Commission on Ethics and Public Trust ended their investigation when the investigator, Mr. Pinochet, was advised the Miami Beach Internal Affairs Unit was conducting an investigation. Mr. Pinochet explained that due to the nature of the complaint, his office would defer the investigation to the police agency which held the jurisdiction over the matter.

August 31, 2009

Mr. Cohen made a public records request for Officer Morgan's email for the period of July 15 through August 31, 2009.

September 3, 2009

Sergeant Jones made a public records request for Officer Morgan and Mr. Winer's email for the period of September 1, 2008 through September 1, 2009.

October 30, 2009

I was assigned as the new investigator to the case and reviewed all the information provided to me. This included Officer Morgan's emails, Special Committee Meeting notes and other various information. In reviewing Officer Morgan's emails, I found the following emails to be pertinent to this investigation:

- On April 29, 2009, at 0031 hours, Mr. Cohen authored an email and sent it to various individuals including Winer, Morgan, Riley, Jenkins, Cruz, and others unidentifiable from the email address. The email was directed to the Executive Board. The email's subject was questioning the relationship between the Kindergarten Cop and the DNA Program. Mr. Cohen in his email advised that the original DNA program test had been done for kindergarten classes and that the program was ready to expand into the first and second grade but he asked that the program wait until after the May Executive Board meeting because he wanted to discuss some issues. Mr. Cohen in his email outlines three issues. The first issue was that the first and the second graders are not served by the Kindergarten Cops. The second issue was that the Program had not been

approved to serve the first and second grades. The third issue was Mr. Cohen questioning the relationship between the Kindergarten Cop and the DNA Programs. Mr. Cohen stated in the email that the DNA program had over \$25,000 and that he wanted to delay the program a week so the Board could approve the expenditures and ensure the money was spent "prudently."

- On April 29, 2009, at 1457 hours, Officer Morgan responded to Mr. Cohen's email and forwarded the email to all original recipients, advising that he was going to respond to him from the last issue to the first. Officer Morgan in his response stated that "No relationship between the DNA program and Kindergarten Cop program..." Officer Morgan stated the program was started at the kindergarten level because the officers were already in the schools at that level. Officer Morgan advised that the program was already "set up" since the releases had already been sent to the children's parents and that the donors had stipulated the funding for first and second graders. Officer Morgan reiterated in his email that the Kindergarten Cop Program was not part of the DNA program, but they used it because the officers had already established a rapport with "the kids schools and teachers."
- On April 29, 2009, at 1611 hours, Mr. Cohen responded to Officer Morgan's email and also forwarded it to all its original recipients. In this email Mr. Cohen posed several questions to Officer Morgan. He confirmed no relationship existed between the Kindergarten Program and the DNA program and that the Kindergarten Program had been used since they were already in the schools. Mr. Cohen also confirmed that the program was going forward because the release and the information of the program had already been sent to the parents. Mr. Cohen advised Officer Morgan that in April was the first time he had heard of the DNA program being expanded to the first and second graders. Mr. Cohen admitted he had heard of the money being raised for the project but had not heard that the program was already in motion. Mr. Cohen then posed a series of questions to Officer Morgan:
 - "At what Executive Meeting was the DNA program for the 1st and 2nd grade mentioned?"
 - "Who approved the DNA program for the 1st and 2nd grade?"
 - "What is the budget for the 1st and 2nd grade?"
 - "What is the cost for the DNA program per student?"
 - "Why was the DNA program for the 1st and 2nd grade rushed out to the public without Executive Board approval and who ordered this?"
- On April 29, 2009, at 1625 hours, Ms. Cruz responded to the email thread and forwarded her response to all the original recipients. Ms. Cruz stated she could not find any mention of DNA for first and second graders anywhere in the Executive Board minutes.
- On April 30, 2009, at 0917 hours, Officer Morgan replied to Mr. Cohen's email and again forwarded it all the original recipients. Officer Morgan reconfirmed that no relationship existed between the Kindergarten Cop program and the DNA program. The DNA program had been "piggybacked" and that the information about the program had been released. Additionally, "make ups" had been completed for the kindergarten classes. Officer Morgan stated in his email that he as the Executive Director, made the decision to offer the program based on several factors; the program was already in existence, the availability of funds, the donor specifically requested the funds be used for first and second graders

DNA program, the school year was almost over and time was short, and that funds would still be left over for the continuation of the program the following year. Officer Morgan further advised that the budget for the program was based on 975 students at \$20.00 each totaling \$19,500. Officer Morgan in his response stated that nothing had been rushed and requested an explanation from Mr. Cohen as to what his concerns were with the program, because it seemed to him that he was the only individual questioning the program.

- On April 30, 2009, at 1034 hours, Mr. Gregg Francis responded to the email thread and forwarded his response to all the original recipients. Mr. Francis in his response stated that he wanted to speak to the entire Executive Board about the recent issues among the board. Mr. Francis suggested they speak about the problem so that they can move forward. Mr. Francis believed the issues and separation among the board commenced on April 1st after discussing Mr. Winer's salary. Mr. Francis expressed his concern about the constant question of people's principles and motivations. Mr. Francis suggested that the members should either move on or quit their positions. Mr. Francis reminded the recipients of the email to focus on the positive that had been accomplished.
- On April 30, 2009 at 1211 hours, Ms. Veski responded to the email thread and forwarded her response to all the original recipients. Ms. Veski advised in her email that she believed the board had been divided much before Mr. Winer's salary had been discussed, but that in her opinion the discussion of his salary made it more personal. Ms. Veski voiced concerns over the lack of analysis on the PAL's expenditures especially with the drastic reduction in school funds. Ms. Veski was also concerned with promises made by prospective donors who had not followed through with either donations or fundraisers. Ms. Veski stated in her email that the Vice President was correct in questioning the DNA program since it had such a large price tag attached to it, and that the prospect of not spending the money or using it for something else should be evaluated. Ms. Veski suggested approaching the donors and asking them to reconsider using the funds for something else, which she believes they most likely would have accepted. Ms. Veski also voiced her concern with depleting the funds and possibly having to close the PAL, at which time the DNA program would not be as important and that other current programs had a much deeper meaning to the League and to the children. Ms. Veski cited examples such as the Police Explorer Program, YDC, Kindergarten Cops, and Pin Pals. Ms. Veski stated in her email that she had a conversation with Officer Morgan where she expressed her ideas to him of what the PAL programs should be. In her opinion, the programs should prevent child delinquency, illiteracy, crime and abuse. Ms. Veski believed that the children would be better served by programs to teach children to identify dangers such as abduction and molestations, and on how to not become victims of crime. Funding a program that helps the children be identified after they became victims is not part of the PAL's core principals. Ms. Veski also urged that the programs the PAL became involved in be selected in a logical manner. Ms. Veski in her email called upon the board to quit fighting and focus their attention on the children. Ms. Veski believed that this could be accomplished when rules are followed pertaining the approval of programs with big price tags.
- On April 30, 2009, at 1932 hours, Ms. Cruz responded to the email thread and forwarded the response to all the original recipients. Ms. Cruz addressed Ms.

Veski specifically and advised her that she was on target. Ms. Cruz went on to quote from the PAL by-laws:

"Article II DIRECTORS, Section 4. POWERS: The general management and supervision of the program, affairs, funds and property of the corporation, disbursement of its money and disposition of its property in fulfillment of its corporate purpose shall be vested in the Executive Board. The board is hereby empowered to direct the Executive Director to carry out its corporate purposes."

Ms. Cruz advised that it also limits the amount of money that can be spent without the approval of the Executive Board and quoted:

"Article III OFFICERS, Section 9. EXECUTIVE DIRECTOR: He/she shall be responsible for coordinating all PAL programs and shall have a limit of \$2,500.00 expenditure without approval of the Executive Board of Directors of the Corporation."

Ms. Cruz in her email, accused the Board Members of simply rubber stamping decisions made arbitrarily. Ms. Cruz reminded the board that they had a fiduciary duty to ascertain that monies are spent judiciously and that they could be held personally liable for either decisions made or failures of the board. Ms. Cruz suggested that all decisions be placed on hold until the next meeting scheduled a week from the date of the email.

- On April 30, 2009, at 2026 hours, Officer Morgan responded to the email thread and forwarded his response to all the original recipients. In his email Officer Morgan asked that no more discussions on this topic be conducted over email and that this was a topic for the Executive Board to discuss. Officer Morgan acknowledged that many different opinions existed over this topic but that they were just that, opinions.
- On May 19, 2009, at 1537 hours, Mr. Winer received an email sent from floridaho@gamil.com. The email was signed by Mark & Kristina Pickard and was solely addressed to Mr. Winer. The email stated that they were excited about all the positive press the DNA program had received. Mr. & Mrs. Pickard stated in the email that after meeting with Officer Morgan and Mr. Winer a month prior, they donated \$18,000. According to the email, the donation was to cover the DNA program for grades kindergarten, first and second. Mr. & Mrs. Pickard pledged in the email that as soon as their children return to school in the fall they would cover the expense of the DNA program for the school year 2009 – 2010 for grades 3, 4, 5 and 6. Mr. & Mrs. Pickard requested in their email to Mr. Winer that any money left over from the original \$18,000 should be spent to cover the other grades. If a deficit occurred, they pledged they would cover the difference in addition to the prior pledge.
- On May 20, 2009, at 2206 hours, Mr. Winer sent an email to Mr. Francis and Officer Morgan stating that he was aware of the accusations of "serious improprieties" made against him at the May 6, 2009 Executive Board meeting involving the DNA program. In his email, Mr. Winer demanded a written explanation of the "alleged" improprieties so that he could respond to them at the next meeting scheduled for June 9th.

- On May 21, 2009, at 1539 hours, Mr. Winer responded to Mr. & Mrs. Pickard's email. Mr. Winer thanked them for their support and advised them he would forward their email to Chief Noriega and the Executive Board. Mr. Winer expressed that he was hopeful to have answers for them on June 4th, a day after the Executive Board meeting. Following that, it would be proposed to the entire board on June 9th.
- On May 21, 2009, at 1546 hours, Mr. Winer forwarded the email thread to Chief Noriega and Officer Morgan. Mr. Winer advised Chief Noriega in his email that approximately \$10,000 was left of all the money raised for the DNA program for grades K, 1, and 2. Mr. Winer advised that he would forward the email to the Executive Board for "their discussion and decision..."
- On May 21, 2009, at 2049 hours, Mr. Winer forwarded the email thread to Mr. Francis and Officer Morgan. Mr. Winer in the email advised Mr. Francis that he had forwarded the email to Chief Noriega and Officer Morgan, and pointed out that it was clear Mr. and Mrs. Pickard wanted their donations to be used specifically for the DNA program and "not" for any other programs. Mr. Winer placed an emphasis on the word "not" by changing the font color to red. Mr. Winer also pointed out in his email that Mr. and Mrs. Pickard were willing to expand the program to grades 4, 5, and 6. Mr. Winer in his email requested that the topic be placed on the Executive Board's agenda to be discussed.
- On May 21, 2009, at 2227 hours, Officer Morgan responded only to Mr. Winer. In this email Officer Morgan requested that Mr. Winer thank Mr. Pickard for his present and past donations, and posed a question that he did not believe it had ever been brought up that monies restricted for something be spent elsewhere or on other programs. Officer Morgan assured Mr. Winer that they would bring this issue up before the board but at an alternate meeting.
- On May 21, 2009, at 2324 hours, Officer Morgan responded to Mr. Winer's email where he demanded the specific allegations in writing. Officer Morgan responded only to Mr. Winer by stating "put it on the agenda."
- On May 22, 2009, at 2203 hours, Officer Morgan sent an email to Mr. Winer advising him that he had just received a letter which advised him that the PAL was being audited between the periods of October 2006 to the present. Officer Morgan indicated in the email that the auditor had chosen November 2006, March 2007, October 2007, August 2008 and April 2009 as test months. Officer Morgan also indicated to Mr. Winer that the auditor was looking for policies, procedures, general ledgers, financial statements, deposit slips, bank statements, vendor invoices, payroll time sheets, etc. Officer Morgan expressed his concern since this would take a lot of work in order to compile all the listed information and wanted to make sure the information was in order. Officer Morgan advised Mr. Winer that the audit was to commence after Memorial Day. He also stated that he told them Mr. Winer was out of town during that time.
- On May 23, 2009, at 1049 hours, Mr. Winer responded to Officer Morgan's email about the audit wondering what had brought the audit on and also advised Officer Morgan to make "Mike" aware of the audit since they had worked on "it" before.
- On May 23, 2009, at 1910 hours, Officer Morgan responded to Mr. Winer's email saying that they can give "guty" their internal audit and that they would work out a "game plan" later.

- On June 2, 2009 at 1349 hours, Officer Morgan sent an email to Mr. Winer attempting to coordinate with him and "Joe" in order to receive an award from the Miami Dade School Board called "big thing". Officer Morgan was relating the information he had received from Mr. Marty Karp through his aide Jerold Blumstein. The award ceremony was scheduled for June 17th at 1300 hours.
- On June 2, 2009 at 1546 hours, Mr. Blumstein (Administrative Assistant to School Board Member Dr. Martin Karp of the Miami Dade County Public Schools) sent an email to Ms. Freedline, Mr. Winer, Officer Morgan, Greg (DNA Life Print), Detective Juan Sanchez, Chief Noriega and Ms. Denise Izquierdo. The subject of the email was titled "Dr. Karp." Mr. Blumstein advised the recipients that Dr. Karp wanted to recognize the PAL for the DNA Life Print Program at the June 17th School Board Meeting. Mr. Blumstein believed this award would be a great way to recognize the great work of the PAL and the Miami Beach Police for this project.
- On June 2, 2009, at 1358 hours, Officer Morgan forwarded the above email to Mr. Winer with no comments.
- On June 3, 2009, at 2130 hours, Mr. Winer sent an email to Officer Morgan advising him that he had received a call from someone who advised that a couple of Executive Board members were at Chicken Kitchen on 41st Street and were overheard by a member of the media "badmouthing" him and Judge Howard Gross with regards to the PAL. Mr. Winer stated in his email that although he did not know what was said he planned to speak to the media about it as soon as he returned from vacation.
- On June 4, 2009, at 0723 hours, Officer Morgan responded to Mr. Winer's above email, with "ok."
- On June 10, 2009, at 1015 hours, Division Chief Riley sent an email to Officer Morgan; the subject was titled "New Bi Law." In his email, Division Chief Riley wrote that in light of the new by-law, he requested Officer Morgan collect "ALL" of the PAL credit cards and that until the signers on the checking account were changed, he was to keep the check books secure. In addition, when checks required two signatures Officer Morgan should sign last.
- On June 10, 2009, at 1402 hours, Officer Morgan forwarded the above email to Mr. Winer with no comments.
- On June 10, 2009, at 1607 hours, Officer Morgan sent an email to Ms. Cruz. The email was forwarded to Mr. Winer and the subject was titled "By-laws." In this email, Officer Morgan advised Ms. Cruz that as per Article IV, section #1 page 5 of the by-laws, the executive board consists of Past President and Past Executive Directors including Mr. Winer. Officer Morgan requested that she forward all emails sent to the board and Mr. Winer also.
- On June 22, 2009, at 1210 hours, Officer Morgan sent an email to Mr. Winer. In the email Officer Morgan advised Mr. Winer of the following:
 - The Executive Board designated a committee to review matters in relation to Mr. Winer.
 - The Committee on that day decided to suspend Mr. Winer with pay until such time they could agree what further actions to take.
 - Mr. Winer could not act on behalf of the PAL in any fashion and was to refer any and all communications to Officer Morgan.
 - Mr. Winer was advised to not destroy any records or property belonging to

- the PAL and to turn them over to Officer Morgan as requested.
- o Officer Morgan believed that the actions taken by the Board were responsible and he look forward to Mr. Winer's full cooperation.

January 14, 2010

I mailed certified letters via United States Postal Service to Mr. Gregg Francis, Mr. Steve Cohen, Ms. Lori Freedline, Mr. Matthew Krieger, Esq., Mr. Bernie Winer, Mr. Robert Jenkins, Ms. Lynda Veski (never responded), Ms. Maria Calzon Cruz (never responded), Mr. Kenneth Stowe (never responded) and Mr. Lyle Stern (returned "unclaimed") requesting they contact me in order to schedule a mutually agreed time for an interview.

February 2, 2010

At 0712 hours, I conducted a sworn recorded statement of Ms. Lori Ellen Freedline at the Internal Affairs Office located at 6840 Indian Creek Drive. A synopsis of Ms. Freedline's statement is as follows:

Ms. Freedline advised that she resigned as Vice President of the PAL Board back in November or December of 2009. She remained as a member of the general board. Ms. Freedline stated that during her tenure, she never became aware of any criminal acts committed by any of the member of the Executive Board.

For further details refer to the audio recording or the transcript.

February 3, 2010

At 1413 hours, I conducted a sworn recorded statement of Mr. Matthew Evan Krieger, Esq. at the Internal Affairs Office located at 6840 Indian Creek Drive. A synopsis of Mr. Krieger's statement is as follows:

Mr. Krieger advised that he was a current member of the PAL's Executive Board. Mr. Krieger advised that he never reported any criminal acts to any investigative agencies because he had no knowledge of any criminal acts involving the Executive Board.

For further details refer to the audio recording or the transcript.

February 4, 2010

At 1132 hours, I conducted a sworn recorded statement of Reserve Officer Robert Louis Jenkins at the Internal Affairs Office located at 6840 Indian Creek Drive. A synopsis of Officer Jenkins' statement is as follows:

Mr. Jenkins is the present President of the PAL. Mr. Jenkins advised that he was not aware of any criminal acts committed by the PAL nor its Executive Board and therefore never contacted any investigatory agencies.

For further details refer to the audio recording or the transcript.

February 5, 2010

At 0714 hours, I conducted a sworn recorded statement of Mr. Bernard Morris Winer at the Internal Affairs Office located at 6840 Indian Creek Drive. A synopsis of Mr. Winer's statement is as follows:

Mr. Winer is presently a non-active member of the Executive Board. As a former Executive Board Director he is automatically a board member but is inactive due to his termination agreement until January 2011. Mr. Winer stated he was not aware of any criminal acts committed by the Executive Board nor its members and that he never contacted any investigatory agencies.

For further details refer to the audio recording or the transcript.

At 1019 hours, I conducted a sworn recorded statement of Mr. Steven M. Cohen at the Internal Affairs Office located at 6840 Indian Creek Drive. Mr. Cohen was accompanied by Counsel, Mr. Abe Laeser. A synopsis of Mr. Cohen's statement is as follows:

Mr. Cohen advised he did not contact any agencies to share his concerns, other than Mr. Centerino of the Miami-Dade State Attorney's Office (SAO) Public Corruption Unit. Mr. Cohen alleged that Officer Morgan did not have the authority to go forward with the DNA LifePrints Program. Mr. Cohen advised Officer Morgan had not received the approval of the Executive Board. According to Mr. Cohen, Officer Morgan used the excuse that since the program was already in existence he (Officer Morgan) simply continued to fund it. Mr. Cohen referred to an email dated April 29, 2009 at 0031 hours, mentioned earlier in this report. During the interview, Mr. Cohen read Officer Morgan's response directly from the email. Mr. Cohen advised that Officer Morgan had admitted he had not followed proper procedure. Mr. Cohen also stated that he reviewed the ledger associated to the DNA program and found the hand written entries, referring to this practice as "an accounting nightmare." Mr. Cohen advised that the handwriting on the ledger belonged to Mr. Winer. Mr. Cohen claimed he requested the general ledger on several occasions in order to inspect the disbursements of monies, but was not provided that information. Mr. Cohen stated that the person who inputs the information into the ledgers was, "Carlos," a part time employee of the PAL who was employed full time with the Miami Beach Parks and Recreation Department. Mr. Cohen did not know a last name for Carlos. Mr. Cohen believed that the Treasurer would be the person responsible for the maintenance of the ledgers during that period. The Treasurer was Division Chief Riley. Mr. Cohen's opinion is that the fundraising and collection of donated money earmarked for a DNA program should not have been done, because the program had not been approved by the board. Mr. Cohen advised he was not sure if all the programs funded by the PAL in the past had been approved by the board. Mr. Cohen cited the by-laws of the PAL, which dictate that the Executive Director only has the authority to make purchases of \$2,500.00 or less without the approval of the Board. Mr. Cohen stated that his second concern dealt with a White Water Rafting trip,

where Mr. Winer took his grandson. Mr. Cohen questioned if Mr. Winer had received approval prior to the trip from the donor, to incur these expenses. Mr. Cohen found the documentation from the donor agreeing to pay for Mr. Winer's grandson suspicious. Mr. Cohen explained there was a trend within the PAL regarding fundraising. Mr. Cohen explained the trend as monies collected were being placed in restricted funds for programs which had not been approved by the Board. These monies were then claimed to be earmarked by a particular donor for a specific purpose. Mr. Cohen stated the overage from the trip (expenses in excess of the donated money) was approximately \$4,000.00 and was paid by the PAL without the Board's approval.

Mr. Cohen explained his next area of concern was related to Thanksgiving baskets given by the PAL, which was a program in existence for at least the past 30 years where needy families receive baskets containing turkeys and other groceries. The last event in 2009 was suspiciously more expensive than previous years. Mr. Cohen also questioned who the recipients were for additional turkeys purchased by the PAL. The additional turkeys were significantly larger than the donated ones. He also questioned the expenditure of \$265.00 paid to Mr. Pete Matthews for deep frying turkeys.

At 1125 hours, the recorded portion of this interview concluded because the digital recorder ran out of storage room. Prior to the end of the interview, I advised Mr. Cohen, with his attorney present, that this investigation of the PAL was confidential until the investigation seized to be active. I also advised Mr. Cohen to contact me directly if he had any additional information or evidence relating to this investigation. Mr. Cohen assured me he understood both. I asked Mr. Cohen if he had any additional information in reference to this investigation and he advised me he did not.

After our interview, Mr. Cohen not only divulged information about this confidential investigation to other individuals of this government, but also to media outlets. Mr. Cohen apparently had additional concerns and failed to share those concerns with this investigator.

For further details refer to the audio recording or the transcript.

February 8, 2010

I received an email from Mr. Cohen. A synopsis of the email is as follows:

Mr. Cohen in his email thanked me for meeting with him, but was disappointed I had only asked him two questions. Mr. Cohen stated that the question I had posed to him about speaking to the IRS or other law enforcement agencies left him confused regarding the purpose of my investigation. Mr. Cohen believed that the question I asked him regarding his knowledge of wrong doing in the PAL was broad and non-specific. Mr. Cohen made suggestions via his email on how to conduct this investigation and suggested I interview Chief Noriega and Chief Martinez. He alleged they were aware and condoned the wrong doings in the PAL. He made several other suggestions as to who needed to be interviewed. He questioned when the IA investigation was opened and requested a copy of the recorded interview he provided. Mr. Cohen attached the draft of the minutes for the Special Committee marked "confidential" and an unsigned draft copy of the audit.

February 9, 2010

At 1509 hours, I conducted a sworn recorded statement of Mr. Gregg Francis at the Internal Affairs Office located at 6840 Indian Creek Drive. A synopsis of Mr. Francis' statement is as follows:

Mr. Francis advised he served as the President of the Executive Board until being replaced by Mr. Jenkins. Mr. Francis along with Ms. Veski and Division Chief Riley, reviewed credit card receipts from the PAL. Mr. Francis advised they had uncovered charges totaling approximately \$1,000.00 in "fine cuts of meats" and "grills" never used by the PAL in any of their fundraising events or picnics. Mr. Francis stated that he first became aware of these findings during the Special Committee meeting dated July 15, 2009. During that meeting, he was able to review those findings. Mr. Francis stated that although he cannot prove the items purchased were used for anyone's personal gains he found them suspicious. Mr. Francis also found suspicious a donation made by Mr. Pickard for \$27,000.00, apparently earmarked or restricted for a rafting trip, which never appeared in the meeting minutes and was not approved by the Board. Mr. Francis was also not sure why Mr. Winer's grandson was allowed to attend the trip. Mr. Francis explained that any money donated to the PAL where the donor restricts the money to a specific program, has to be in accordance with the mission of the organization. Mr. Francis explained that it is up to the Board whether or not to accept donations with restriction. Mr. Francis' interpretation of the by-laws was that the Executive Director did not have the authority to accept money with restrictions unless previously approved by the board. Mr. Francis' concerns with the DNA Program included approximately \$27,000.00 dollars of PAL funds used to fund this project without the Board's approval and with no comparative quotes. Mr. Francis advised the kits were being purchased from a close friend of Mr. Winer, which added to an appearance of impropriety. Mr. Francis agreed these were violations of the by-laws and not necessarily illegal. Mr. Francis mentioned he had received harassing phone calls at his job. Mr. Francis advised the caller, in one of the instances, told his boss "Gregg better shut the F... up." In another instance the caller said, "keep his mouth shut." The caller did not name or elaborate on who he meant. Mr. Francis was concerned for his safety and assumed the calls were related to his involvement with the PAL, which led to his resignation from the Board. He suspected a member of the PAL was involved and believed a "retired police officer" was behind the phone calls. Mr. Francis was referring to Mr. Winer.

Mr. Francis stated that the Executive Director had the discretion to spend up to \$5,000.00 on a single incident and the ability to make "tacit approvals." Yet, Mr. Francis believed that "tacit approval" is "nonsense" and is a fancy way of saying "this wasn't voted upon." I posed the question to Mr. Francis, "If the Board of Directors found the Executive Director misappropriating funds and concluded they wanted him/her removed from his position would the Board have the power to remove him?" Mr. Francis answered that in his personal opinion the Board probably could remove the person, but morally they would not want to. Mr. Francis felt that removing someone would make some people upset and that they did not want to cause problems. Mr. Francis reviewed a copy of the general ledger which was handwritten and in his professional opinion, as an accountant, it seemed as if someone was "scrambling" and writing stuff down at the

last minute. Mr. Francis admitted he signed checks that were not complete or missing the supporting documentation when asked to do so by the Executive Director. Mr. Francis advised that he also found Costco memberships under wives names and he found that to be improper. Mr. Francis was hesitant in fully assisting me with this investigation, citing that he may be putting himself in "harm's way." Mr. Francis would not elaborate even after I explained to him the different Statutes that protect witnesses. The interview with Mr. Francis concluded at 1555 hours. For further details, refer to the audio recording or the transcript.

March 19, 2010

The Miami Beach Internal Audit regarding operations of the PAL was finalized and approved by Mr. Jorge Gonzalez, the City of Miami Beach City Manager. The audit found several shortcomings with the operation of the PAL. The shortcomings found by the auditor were quoted as follows:

1. PAL made tax-exempt purchases on behalf of two independent taxable organizations, Neostar Sports & Entertainment and the Miami Beach Fraternal Order of Police, William Nichols Lodge No. 8 (MBFOP) during the audit period.
2. PAL's lease agreement contained contradictory language regarding responsibility for paying the building's utilities. A Memorandum of Understanding (MOU) was signed on 11/05/2007 to provide future clarification and its terms followed, but it was not approved by the City Commission. Additionally, the City has continued to pay for the building's water and sewer charges which should be paid by the PAL.
3. The PAL building (located at 999 11th Street) has several maintenance issues that should be repaired. In addition, \$31,143.00 of janitorial services for twelve months were paid by Police internal service charges rather than allocated to the building occupants.
4. Internal controls were not sufficiently implemented and followed concerning gym membership payments to help prevent the misappropriation of monies by a recently terminated gym manager.
5. An unannounced cash count on 6/17/2009 found that a new gym employee did not follow stated verbal procedures in the receipt and reimbursement of deposits for temporary access cards. Also, cash was not properly safeguarded or timely deposited at City National Bank to help reduce PAL's risk exposure.
6. Deficiencies in the non-profit's accounting records are identified that hinder the audit trail.
7. Deviations from PAL's by-laws and sound business practices for the Thanksgiving Day Food Drive and DNA Life Print Kit Programs are listed.

8. PAL did not fully comply with all the terms listed in Florida Statue 561.422 regarding the attainment of temporary alcohol permits for not-for-profit organizations.
9. PAL made purchases on behalf of the City for the Parks & Recreation Department's Biggest Loser Contest, the Police Department's Citizen's Police Academy and for the Citywide Take Your Child to Wok Day that were either partially or fully reimbursed. PAL has a close working relationship with these departments that should be re-evaluated.
10. American Express corporate credit cards were also used personally by PAL's Outside Consultant (Mr. Winer) thereby creating additional work for their bookkeeper, increasing the possibility of mistakes, etc.
11. PAL funds were used to pay registration fees for an employee's spouse; flowers and food for funerals; wedding gifts; etc. that do not appear to adhere with the organization's mission statement.
12. Two Miami Beach Police Department employees missed work to attend out-of-town PAL sponsored events but were charged administrative leave time and were paid in full by the City.
13. One City employee who worked part-time at PAL did not prepare and submit the required "Outside Employment Statement" for the 2006 and 2007 calendar years.

Some of the shortcomings documented in the audit were consistent with the allegations brought forth, by Mr. Cohen. The first listed shortcoming was that the PAL was found to be making purchases using their tax exempt classification for organizations that do not share the same privileges. It seemed these exchanges were done for donations and in other situations for full reimbursements, saving the other entity both sales tax and resort tax. The auditor found an occasion where the PAL allowed a company called Neostar Sports & Entertainment uses their certificate of exemption to organize an event at Nikki Beach Club during Super Bowl weekend of 2/1/07 to 2/4/07. The event cost \$400,000 and the \$36,000 in taxes (7% sales tax & 2% resort tax) was circumvented. The PAL in return was supposed to receive a minimum of \$25,000 donation from the proceeds. The company actually filed for bankruptcy and only remitted \$195,000 to Penrod's and \$12,500 to the PAL. On other occasions occurring in 2007, 2008 and 2009, a similar arrangement was made with the MBFOP (which is a non-for-profit but not a 501c3 and does pay taxes) where luncheons for retired police officers were hosted by the MBFOP. In the 3/26/2009 luncheon the PAL paid \$1,600 and was subsequently reimbursed by the MBFOP \$1,000. The PAL donated \$600 and the MBFOP circumvented the \$144 in taxes.

The City and the PAL in their separate response to the auditor agreed that policies & procedures need to be adopted and adhered to so as to insure these practices do not continue.

The second listed shortcoming was that the auditor found some contradictory language

in the lease agreement between the City and the PAL. Confusion existed on which entity was responsible for paying for the utilities. Also, the City was responsible for contributing off-duty surcharges to the PAL and had not done so. A MOU drafted between the City Manager and the PAL on 11/5/2007 clarified the problems. The City paid the PAL a sum of \$214,128 dollars. The back dated surcharges were paid in quarterly installments and a onetime sum of \$50,000 dollars in July 2007 to assist with previous utilities bills. The auditor found that the PAL owed the City \$18,924 dollars for water and sewer charges paid incorrectly by the City.

The City in their response admits the water and sewer bill was incorrectly paid for, but will negotiate a resolution due to multiple entities being serviced from the separate meters. The PAL pointed out that there were City entities not associated with the PAL on the same meters and they will draft another MOU to address this issue.

The third listed shortcoming was that the maintenance of the building was found to be deficient. The auditor cited water damage, leaks, broken treads in stairwells as well as others. Additionally, the Property Management Division was not billing the PAL for janitorial services accumulating a debt of \$31,143.

The PAL and the City in their separate responses to the auditor agreed to re-negotiate the conditions of the janitorial services. There was no mention of the necessary building repairs except for the City's assertion that the PAL was responsible for some of the repairs.

In the fourth listed shortcoming, the gym memberships and the handling of the fees and reimbursements were found to be deficient. In April of 2009, a full time gym manger was terminated when it was discovered he was stealing membership fees. The employee was issuing receipts from the back of a generic "Office Depot" receipt book and then destroying the last receipt copies, thus destroying evidence of the existence of those monies. The administration's lack of securing the receipt books, tracking of receipt numbers, documenting the receipt numbers in use and lack of reconciliation of the receipts with the voided receipts, contributed to the misappropriation. An on-site inspection of the receipt books conducted by the auditor demonstrated missing receipts, no accountability of the receipt books and the lack of reconciliation. The terminated gym manager was estimated to have stolen \$500.00 dollars in PAL monies.

The PAL's response to the auditor's finding was to obtain receipt books with the PAL's logo, keep voided receipts in order to reconcile the account, maintain a work sheet by the staff handling the membership fees and implement other safeguards as part of their updated policies & procedures.

The fifth listed shortcoming was found by the auditor when he conducted an unannounced cash count. The auditor found that the members of gym, depending on their circumstances and how often they decide to pay, paid different amounts. The cash count was short \$40 dollars, and it appeared that the new employee lacked sufficient guidance and incorrectly reimbursed two customers \$20 dollars each. The auditor also found \$3,270 dollars had not been deposited but instead stored in a less secure drawer with a padlock instead of another more secure option. The auditor recommended more frequent deposits to be made in order to reduce the cash on hand.

The PAL's response to the auditor's finding was that they would adopt new policies & procedures based on the auditor's findings.

The sixth listed shortcoming stemmed from the annual audits performed by an independent accounting firm where the PAL received unqualified opinions indicating their lack of compliance with the Financial Accounting Standards Board (FASB) accounting pronouncements for not-for-profit companies reporting on a cash basis. The PAL was basically ignoring the matching principal. The auditor did not test the accounting methods and instead checked its accounting records. The auditor found supporting documentation for canceled checks missing and checks payable to restaurants not properly noted with that purpose. The auditor noted an example of check #8190 dated 10/21/2008 to Monty's Stone Crab & Seafood House for \$2,179 dollars. The auditor also found occasions where checks were given to staff as an advance prior to a trip with no supporting documentation of the exact monies used by the staff. The auditor also noted that although the checks were safeguarded properly, he found two blank checks signed by both Mr. Winer and Officer Morgan in the drawer. The by-laws do require that all checks have two signatures and approval of the Executive Board of Directors for any amount in excess of \$2,500 dollars. The auditor also found cancelled checks which were cashed by the bank containing only one authorized signature, although it appeared they were for legitimate expenditures. This practice did circumvent the requirements set forth by the by-laws. The auditor also noted that the PAL should, by contract, receive a monthly check from the MBFOP for \$535 dollars for rent but instead was receiving \$523 dollars. The PAL was unable to furnish a contract to the auditor for the rented space the Miami Beach Policeman's Relief and Pension Fund occupies. The Fund was paying \$300 dollars a month for their space to the PAL. The auditor found that 2008 voided checks were destroyed and not entered in their accounting software.

The PAL responded to the auditor's finding agreeing to make some procedural changes and to seek guidance from their accounting firm on which account practices to follow.

The seventh shortcoming found by the auditor dealt with a review of some larger programs run by the PAL. The auditor looked at two specific programs, the Thanksgiving Day Food Drive and the DNA Life Prints Kits. The Thanksgiving Food Drive traditionally had received donations from a multitude of businesses and individuals. This program had cost the PAL approximately \$15,000 dollars annually. The turkeys purchased for the giveaway weighed approximately 8 pounds each. In 2008, the PAL purchased an additional twenty-four (24) turkeys weighing 16/18 pounds, four (4) weighing 22/24 pounds and six (6) 8/10 pound turkey breasts. The administrative staff claimed that 15 of those turkeys were distributed to Parks & Recreation staff, nine (9) were distributed to Municipal Service Workers who worked in the building, three were distributed to PAL's administrative staff, four (4) were distributed to PAL's gym employees, five (5) were distributed to Miami Beach Police Evidence Staff and the remaining turkeys were distributed to others who helped throughout the year. The auditor did not find any supporting documentation to confirm the aforementioned turkey distribution.

The DNA Life Print Kits consisted of a package which included 10 digit certified

biometric fingerprints cards, a DNA identification kit, a high quality digital photograph and a Comprehensive Child identification kit. The package was stored by the parent and if the child should become missing, they would use the information acquired to assist in the identifying and/or locating of their child. The auditor showed that \$23,416.09 was raised in donated monies for the purchase and the distribution of the kits to kindergarten, first and second graders during March/April of the 2009 school year. The auditor found that different purchases made for the DNA kits were over the \$2,500 dollar threshold set forth by the by-laws for purchases made without the Executive Board's approval. The only mention of the program, according to the minutes, was the board of directors discussing the purchase and \$7,500 dollars in restricted monies being received. In the auditor's opinion, the DNA Life Print did not fit the PAL's mission statement. The auditor also found a discrepancy with the purchase price (\$14.95 dollars) listed in the company's web page and the price paid for by PAL (\$20.00 dollar) for each kit. The auditor noted in his report that the PAL explained the difference in price due to the additional benefits they receive such as a bio-metric fingerprint analysis, a journal and other non-specified benefits.

The PAL's response to the auditor was that future purchases that exceeded \$2,500 dollars would be done so with the approval of the board. They would also seek competitive bids for future programs. The PAL in their response also asserted that the Board had approved the DNA Life Print program for the 2010 school year.

The eighth shortcoming identified by the auditor was their past violations of FSS 561.422. This statute states:

"...the director of the division may issue a permit authorizing a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises only, for a period not to exceed 3 days, subject to any state law or municipal or county ordinance regulating the time for selling such beverages. ALL net profits from sales of alcoholic beverages collected during the permit period must be retained by the nonprofit civic organization..."

During the audit period, the PAL obtained alcohol permits for Volleypalozza 2007, Miami Beach World Cup Polo 2007 and Miami Beach World Cup Polo 2009. In return for a negotiated fee, the PAL allowed independent vendors such as Boucher Brothers (current members of the Board of Directors) and the Playwright Pub to operate the alcohol concessions on the beach. This violated FSS by the sales not being conducted on the premises of the PAL (999-11th Street) and by not receiving all net profits from the sales, instead receiving a fixed negotiated amount.

In the PAL's response to the auditor's findings, they agreed not to deviate from FSS in the future and adopt policy that addresses the authorized use of the agency's tax exempt status.

The ninth shortcoming found by the auditor was an apparent comingling of monies with different City entities. During the audit period, the PAL purchased items on behalf of other City entities. The PAL was either fully reimbursed or partially refunded for their expenditures for the City entities. The auditor outlined numerous occasions where thousands of dollars in PAL funds were used in City sponsored projects. One of the occurrences noted was a \$3,000 dollar payment by PAL on 2/27/2008, for the purchase of a table at the annual Law Enforcement Officers Awards Banquet on behalf of the

Miami Beach Police Department.

The PAL's response was to no longer sponsor or assist in many of the outlined events and to adopt and utilize a "Program Assessment" form which would clearly identify and record the board's approval of sponsored and financed events.

The tenth shortcoming found by the auditor was about the use of the American Express Corporate credit cards. These cards were issued to the Executive Director, Outside Consultant and the Bookkeeper. On June 9, 2009, the cards were recalled by the Executive Board and were no longer used unless prior approval was granted. Prior to the recall, the auditor questioned a monthly bill of \$25.90 charged to the card by AOL. The investigation revealed that in the year 2000 when the computer lab in the building was first opened, an AOL account was necessary in order to provide AOL email accounts for the staff. As time progressed, the need for AOL membership became unnecessary yet no one in the PAL questioned the charges. In October 2009, the membership was finally canceled. The auditor also noted that the cards were being used by Mr. Winer to pay for some of his personal expenses. The card holder is supposed to review his/her bill monthly and decipher which charges are personal and which are not. The personal charges are supposed to be reimbursed to the PAL in a timely fashion so as to not, indirectly, receive a non-interest bearing, short term loan from the 501c3 organization. The audit showed that during the audit period, Mr. Winer charged a total of \$2,402 dollars in personal items such as air fare for family and friends, meals locally and out-of-town, assorted items at Home Depot and Costco, etc. Mr. Winer did reimburse the PAL a total of \$2,327 dollars leaving an outstanding balance of \$75.84. The auditor also noted that Mr. Winer had earned Delta Air Line miles by the use of the credit card in general and had used some of those miles to garner reduced air fare for personal travel.

The audit also showed a charge for a \$124 dollar wireless earphone and a \$487 dollar charge for two new cell phones paid for by PAL funds. The earphone and one of the cell phones were for Mr. Winer, although his contract stipulated he would not receive any additional benefits besides his salary and reimbursement for reasonable expenses associated with attending State and National PAL Conferences. The auditor noted that the card was used to purchase meals which included alcoholic beverages that were marked as business related expenses. During the audited period, there were approximately fifty-nine (59) meals purchased averaging \$71.00 dollars each. In the auditor's experience, the meals purchased were not excessive and amounted to approximately two (2) a month.

The PAL's responded to the auditor's findings was the implementations of more stringent policies for the use of the corporate credit card and the delineation of the approved uses.

The eleventh shortcoming found by the auditor were expenditures made by the PAL, which were not consistent with the PAL's mission. The auditor found a total of \$3,721.00 dollars in such purchases. The supporting documentation for those purchases extended from conference registrations for a spouse, Costco membership for staff and family members, food and/or flowers for family and friends' funerals, donations

to Cooper City athletic organizations, wedding gifts; etc. The audit showed that a donation was made for \$25,000.00 dollars, which was deposited on April 28, 2008 sponsoring a rafting trip to Hell's Canyon, Idaho. The documentation also showed that the donor did approve Mr. Winer's grandson (Jesse) to participate in the trip, although he lived in Missouri. The total cost of the trip was \$28,704.00 dollars; \$3,704.00 dollars exceeded the donated money. The difference owed was paid for by the PAL. The minutes of previous meetings made no mention of the trip and no documented approval from the board found. This violated the by-laws of the organization. Also, no documentation was located indicating that board's approval of the disparity between the donated money and the actual cost of the trip.

The auditor found an invoice dated December 4, 2008 from Restaurant Depot for \$577 dollars. A purchase of seven (7) racks of lamb, 14 pounds of skirt steaks, 15 pounds of flank steaks, nine (9) pounds of Angus ground chuck, two (2) packages of smoked salmon with cracked pepper, meatballs, 22 pork tenderloins, six (6) boxes of shrimp and breaded shrimp were made. The information provided to the auditor was that the meats were given to three needy individuals. No documentation existed nor did was the Executive Board's approval obtained. The PAL did make donations to the several organizations during the audited period; Boy Scouts, Girl Scouts, American Cancer Society, and March of Dimes; etc. The auditor believed these organizations do not adhere to the PAL's mission statement.

The PAL's responded to the auditor's findings by the implementing policy dictating that expenditures of any amount that do not meet the PAL's mission statement shall first be approved by the Board. Additionally, closer scrutiny will be placed on future expenditures submitted for reimbursement.

The twelfth shortcoming found by the auditor was the use of administrative leave given by the City to their employees involved in PAL travel. The auditor recommended that city employees, with the exception of the Executive Director, should not be afforded administrative leave unless all other options have been explored. The City agreed to the auditor's recommendations.

The thirteenth and last shortcoming documented by the auditor was an instance where a part-time employee of the PAL, who was also employed by a City agency, had not filled the appropriate outside employment form as dictated by City and County policies.

The City in their response advised that the employee was currently in accordance with the rules and did file his outside employment form with the City Clerk's Office.

The auditor's report continued with a summary of the August 29, 2005 audit, which had similar shortcomings to those found in the current audit. Some issues were either ignored or remained unchanged.

For details on the findings, recommendations and responses refer to the Miami Beach Internal Audit Report completed by Internal Auditor Mr. James J. Sutter and signed off by City Manager Jorge Gonzalez; dated February 25, 2010 on the Miami Beach Police Athletic League for the period of October 1st, 2006 to May 31, 2009.

July 26, 2010

In a meeting with City Manager Jorge Gonzalez, he informed me that Mr. Cohen was alleging the PAL had inappropriately made a purchase for Glock pistols, several years ago. After the meeting, I contacted Officer Morgan and requested he provide me with all documents associated with the purchase of the Glock pistols mentioned by Mr. Cohen.

July 27, 2010

Officer Morgan provided me with the following documentation in reference to the purchase of the Glock pistols:

- PAL payment record from Check #7399 dated 9/7/2007 documented the purchase being made for the Explorer Program. "Firearms for Training & Competition Events" for \$3,630.00." A note was written stating "Firearm to Remain at MBPD Range".
- A letter signed by Chief Noriega on City letterhead addressed to Lou's Police Security and Equipment Company, dated September 7, 2007. In the letter the Chief advised the Company the firearms were for Miami Beach departmental use.
- A paid invoice from Lou's Police and Security Equipment, Inc., dated September 7, 2007, listing 10 Glock pistols model 17 for \$363.00 each and totaling \$3,630.00. The serial # of the pistols bought according to the invoice were LCC405, LCC406, LCC407, LCC408, LCC409, LCC410, LCC411, LCC412, LCC413, and LCC414.
- A copy of check #7399 of the PAL used to purchase the pistols, dated September 7, 2007, for \$3,630.00 made out to Lou's Police Supply signed by Officer Morgan and Mr. Winer. The note on the check read "Explorer Program 10 Glock firearms."

I contacted Sergeant Guerrero, the Department's Range Master, and asked him to conduct an inventory of the Glock pistols in the armory available for use by the Police Explorers. Sergeant Guerrero advised me he had 10 Glock pistols model 17 for use by the Police Explorers and listed each serial number as indicated in the invoice. All the firearms were accounted for. A copy of his e-mail is attached to the case file.

August 11, 2010

Captain Jennifer Elmore and I attended a meeting at the State Attorney's Office with Mr. Jose Arrojo and Ms. Johnette Hardiman. We discussed the investigation and I provided Ms. Hardiman with a Memorandum, which detailed the findings and all applicable exhibits that included the internal audit for her review.

August 23, 2010

Assistant State Attorney Ms. Hardiman drafted a Close Out Memo concluding that the State Attorney's Office would not pursue any criminal charges as a result of this

investigation. As stated in the memo, their investigation is closed. A copy of the Close Out Memo is attached to the case file.

FINDINGS:

- Mr. Winer made purchases using a PAL credit card for personal expenses, which does not rise to a level where criminal prosecution could be considered, but is in violation of PAL policy. All the purchases were reimbursed to the PAL. His employment with the PAL was subsequently terminated. Mr. Winer and the Board raised monies for the PAL, at times in violation of statutes which govern 501c3.
- On several occasions the PAL violated section 561.422 Florida Statutes dealing with temporary alcoholic beverage permits, but the statutes does not have a criminal penalty.
- The PAL used their tax-exempt statutes to purchase items for other organizations. Although inappropriate, the Department of Revenue is the agency responsible for investigating those allegations.
- Officer Morgan approved several expenditures in excess \$2,500.00. Examples of such expenditures were the rafting trip and the DNA Life Print program. The practice, although condoned in the past by previous Executive Boards, was in violation of PAL by-laws. Mr. Francis, the previous PAL president, advised that Officer Morgan did have tacit approval. Although he confirmed Mr. Morgan's tacit approval, he also condemned the practice stating it was merely a way of making purchases with no Executive Board approval. Mr. Francis did nothing to stop the practice.
- The Executive Board, in general, violated several of their own policies. In one instance, they created a Special Committee to oversee Mr. Winer's situation. That Special Committee, which in part consisted of the President and the Executive Director, hired and paid for the services of an attorney without first obtaining Executive Board's approval. The Board did condone the Executive Director having some freedoms without their direction, such as purchases of food or shirts for Police Department functions, which were at times either fully or partially reimbursed or not reimbursed at all.
- The PAL's bookkeeping was questioned and found to not be as accurate as it should.
- Programs such as the Thanksgiving Turkey giveaway were not accurately

documented. Hence, the amount of turkeys donated and to who they were specifically donated was not documented.

- The PAL's Gym failed to have concise policies and furthermore, failed to train their Gym managers properly.
- Several similar shortcomings were found in the 2005 audit, which were never improved upon. The PAL continued to do business the same way without improving their operation, even after those shortcomings were brought to light.
- The PAL's business operation was very lackadaisical.
- During the open criminal investigation, Detective Azim, Division Chief Riley and Officer Morgan were not interviewed in order to safeguard a potential prosecution brought forth by the State Attorney's Office and to avoid conflicts with Garrity.
- After consulting with The State Attorney's Office, the criminal investigation was closed. At the conclusion of the criminal investigation, it was determined that there were no administrative violations in connection with this investigation. Based on the lack of administrative violations, the aforementioned employees were not asked to provide an administrative statement.
- The Miami Beach Police Department's Internal Affairs Unit received a Close Out Memo from the Miami-Dade State Attorney's Public Corruption Unit dated September 2, 2010. This memo states any action that may be taken by the Department of Revenue, will be handled separately.

CONCLUSION:

The PAL has been mis-managed for at least a decade. The responsibility of this mis-management is shared collectively by all members of past Executive Boards, including Mr. Winer, the past consultant. It seems the commonality shared amongst all mentioned members is their sincere interest in the true cause and mission of the PAL. The PAL, like most organizations, businesses or private company has policies, procedures and by-laws which guide them. This investigation revealed that the policies, procedures and by-laws of this PAL are lacking, outdated and for the most part not adhered to. It is evident that "past practice" has been the guiding light in this organization. These failures do not fall under the purview of the Miami Beach Police Department and are not governed by this Department's Standard Operating Procedures.

The investigation noted a number of shortcomings found by the internal auditor, the organization's accountant, past members of the Executive Board and myself. The shortcomings have breached the PAL's inner policies, procedures and its by-laws. The auditor did find some instances where some Federal tax laws and Florida State Statutes may have been ignored. Consultation with Ed Tetterton, Investigation Manager of the Florida Department of Revenue (Department), brought to light the complexity of an investigation into matters of this type. Though not usually pursued as criminal matters, the Department of Revenue has administrative and civil remedies that may be pursued.

To date, Ms. Veski, Ms. Cruz, Mr. Stowe and Mr. Stern have not contacted the Miami Beach Police Internal Affairs Office in order to schedule an interview. During the criminal investigation, Detective Azim, Division Chief Riley and Officer Morgan were not interviewed in order to safeguard a potential prosecution brought forth by the State Attorney's Office. At the conclusion of the criminal investigation, it was determined that there was insufficient evidence of any type to pursue Miami Beach Police Department administrative violations. The PAL is a completely independent entity which is governed by their Policies, Procedures and their Board of Directors, not by the Miami Beach Police Department or the City of Miami Beach. As per an agreement the City has with the PAL, the Department detaches a sworn police officer to the PAL who in turn holds the position of Executive Director. The PAL is an independent organization; neither the Department nor the City has the ability to enforce violations of PAL Policies and Procedures. The officers involved in this investigation did not violate any Department or City, Policies and Procedures.

The Miami-Dade State Attorney's Office reviewed this investigator's findings and concluded to not pursue any criminal charges.

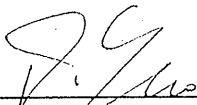
**Violation 1: Theft FSS 812.014 by Misappropriation of PAL Funds and/or Assets:
UNSUBSTANTIATED.**

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in SS. 112.532 and 112.533, Florida Statutes."



Investigator: Sergeant Osvaldo Ramos
Internal Affairs Unit Sergeant

9/3/10
Date



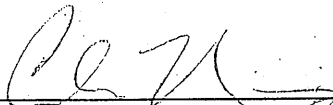
Witness: Lieutenant Julio Yero
Internal Affairs Unit Sergeant

9.3.10
Date



Reviewed by: Captain Jennifer Elmore
Internal Affairs Unit Commander

9.3.10
Date



Approved by: Chief Carlos Noriega
Chief of Police

9/28/10
Date